

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT VIRTUAL MEETING ON JANUARY 27, 2022 @ 7pm**

**Case Number:** B266615 (B-22-01)

**Applicant:** Joel Rensberger (Contractor)

**Appeal:** Requesting a 6.4' variance to a 30' rear building restriction line in order to build a small addition, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, the variance would create a 23.8' rear building restriction line.

**Location:** The property is described as 8195 Honey Clover Court, Tax Map 0057, Parcel 0282, Tax ID # 28548699, Zoning, Medium Density (R5), Size, .279 Acres.

**Planning Region:** Frederick

**Zoning District:** Medium Density Residential (R5)

**Comp. Plan Designation:** Low Density Residential

**Applicable Ordinances:** Sec. 1-19-3.220 Variances  
Sec. 1-19-6.100 Design Requirements

**Background**

The required setbacks for lands zoned (R5) are front – 30', side – 8', rear – 30'.

**Proposal:**

The Applicant, on behalf of the owners, is requesting a variance of 6.4 feet from the required 30-foot rear building restriction line, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, this would create a 23.8' rear building restriction line and allow for the construction of an addition to the residence. The Applicant would like to provide additional living space for the property owners' elderly parents. (Attachment 1)

**Sec. 1-19-3.220 - General Criteria - Variance:**

Under the provisions of Section 1-19-3.220(C) of the Frederick County Zoning Ordinance, the Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.

***The Applicant states that he is seeking a variance of the rear setback requirement.***

- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

***The Applicant states that he was directed to the Board of Appeals process by the Frederick County Division of Planning.***

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

***The Applicant states that he understands this requirement and has put into motion the process.***

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

***The Applicant states that the Loomer's lot is unique in several ways, most notably it's topography on the cul-de-sac when compared to surrounding lots. The existing grade and the method of original construction do not facilitate building off the back right portion: grade is too high and the foundation was constructed in a manner that does not allow any potential addition in that space to be accessible to the rest of the dwelling.***

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:

- (a) That the special conditions and circumstances do not result from the actions of the applicant; and

***The Applicant states that that the special conditions are not the result of any action taken by the property owners he is representing. The Loomers did not construct this home. The Applicant further states that the topography on the cul-de-sac when compared to surrounding lots, the existing grade and the method of original construction do not permit building off the back right portion: grade is too high and the foundation was constructed in a manner that does not allow any potential addition in that space to be accessible to the rest of the dwelling.***

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Code would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of Chapter 1-19 of the Frederick County Code; and

***The Applicant states that the lot is unique and provides an unreasonable hardship in several ways, most notably its topography on the cul-de-sac when compared to surrounding lots. Existing grade and the method of original construction do not permit us to build off the back right portion: grade is too high and the foundation was constructed in a manner that does not allow any potential addition in that space to be accessible to the rest of the dwelling.***

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 of the Frederick County Code to other lands or structures in the same district; and

***The Applicant states that the approval of the variance would not confer any special privilege on the Applicant. The Applicant has minimized the variance request amount to allow for the needed space and to minimize any impact are neighboring properties.***

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

***The Applicant states that the granting of this variance is in harmony with the general purpose and intent of the chapter. It is not injurious to others or detrimental.***

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19 of the Frederick County Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of Chapter 1-19 of the Frederick County Code.

***The Applicant states that he understands this requirement.***

- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of Chapter 1-19 of the Frederick County Code in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 of the Frederick County Code in said zone.

***The Applicant states that he understands this requirement and this proposed use is allowed under the terms of Chapter 1-19 of the Frederick County Code in this zone.***

- (F) Except as specified in § 1-19-4.220(C), the Board of Appeals shall not grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

***The Applicant states that he understands this requirement and that the structure is not nonconforming.***

- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

***The Applicant states that he understands this requirement.***

#### **Actions Needed:**

Staff requests that the Board review the general criteria for a variance under Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Code and render a decision on the Applicant's request for a 6.4 feet variance from the required 30-foot rear building restriction line. If approved, the variance would create a 23.8' rear building restriction line.

## Attachment 1



## GIS Maps











